

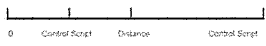
# **Attachment G**

**Inspection Report -  
60-60B Darlinghurst Road, Potts Point**

60-60B Darlinghurst Road, Potts Point



*city of sydney*



Metres  
David Jan 19  
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**Council investigation officer Inspection and Recommendation Report  
Clause 17(2) of Schedule 5, of the Environmental Planning and Assessment Act  
1979 (the Act)**

**File:** CSM 2003523

**Officer:** Chad Grant

**Date:** 24 January 2019

**Premises:** 60-60B Darlinghurst Road, Potts Point NSW 2011 – “The Love Machine”

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**Executive Summary:**

Council received correspondence from the Commissioner of Fire and Rescue NSW (FRNSW) in relation to the subject premises with respect to matters of fire safety.

The premises consist of a three storey building used for mixed commercial purposes. The subject premises, referred to by FRNSW as the “Love Machine” is located on the ground floor ( in part), first floor and second floor. The building is configured as follows:

- Ground floor – restaurant, internet café and licensed (sex on premises) premises (Love Machine)
- First floor and second floor – “Love Machine”

The building was subject to a Fire Safety Order issued by Council on 8 November 2012 which was subsequently finalised on the 26 May 2016.

An inspection of the premises undertaken by a Council investigation officer in the presence of the tenant revealed that there were no significant fire safety issues occurring within the building.

The premises are equipped with numerous fire safety systems (both active and passive) that would provide adequate provision for fire safety for occupants in the event of a fire. The annual fire safety certification is current and compliant and is on display within the building in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000.

Council investigations have revealed that whilst there remains several minor fire safety “maintenance and management” works to attend to including a defective direction sign, the overall fire safety systems provided within the subject premises are considered adequate in the circumstances.

It is considered that the above fire safety works are of a degree which can be addressed by routine preventative and corrective maintenance actions undertaken by the owner’s fire service contractor(s) through written instruction from Council.

Observation of the external features of the building did not identify the existence of metallic sheet cladding on the façade of the building.

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**Chronology:**

Date	Event
18/12/2018	FRNSW correspondence received regarding premises 60-60B Darlinghurst Road, Potts Point NSW 2011.
20/12/2018	An initial desktop review of the subject building revealed that the building has a fire safety schedule and is required to submit annual fire safety statements to Council and FRNSW.  The building has a current compliant annual fire safety statement, with the next one due on 12 June 2019.

11/01/2019	<p>An inspection of the subject premises was undertaken by a Council investigation officer which identified a number of fire safety issues including:</p> <ul style="list-style-type: none"> <li>➤ The fire indicator panel displayed a fault and an isolation light;</li> <li>➤ Defective fire safety measures such as an non-illuminated directional exit sign; a non-functioning electromagnetic door holder ( to a fire exit stair ); and a missing smoke alarm (from a work room);</li> <li>➤ Partial obstruction to an exit (furniture).</li> </ul> <p>The above items were discussed at the time of inspection. Property fire service contractors are to service the fire indicator panel to ensure the system is fully operational and to also rectify the aforementioned defective fire safety measures.</p> <p>There was no indication of any sleeping activities within rooms 3 or 4, nor any other on area site.</p>
15/01/2019	<p>Correspondence was issued to the building manager, tenant, and the owners of the building by a Council officer to have the abovementioned matters satisfactorily addressed.</p>

**FIRE AND RESCUE NSW REPORT:**

References: [BFS17/2637 & BFS17/102; D18/88852; 2018/645951]

Fire and Rescue NSW conducted an inspection of the subject premises in conjunction with the NSW police force on 9 December 2017.

**Issues**

The report from FRNSW detailed a number of issues, in particular noting:

1. The Fire Indicator Panel displayed faults and isolations;
2. Certain fire safety measures such as an electromagnetic door holder and emergency lighting were not being maintained;
3. Egress was either obstructed or impeded.

**FRNSW Recommendations**

FRNSW have made a number of recommendations within their report. In general FRNSW have requested that Council:

1. Inspect and address any other deficiencies identified on the premises and require abovementioned items to be addressed appropriately.
2. In its capacity as the regulatory authority take action to have the abovementioned items appropriately addressed.

3. Advise them in writing of its determination in relation to this matter in accordance with the provisions of clause 17(4) of Schedule 5 of the Environmental Planning and Assessment Act 1979.

**COUNCIL INVESTIGATION OFFICER RECOMMENDATIONS:**

Issue Order (NOI)	Issue emergency Order	Issue a compliance letter of instruction	Cited Matters rectified	Continue to undertake compliance action in response to issued Council correspondence	Continue with compliance actions under the current Council Order	Other (to specify)
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As a result of the above site inspection undertaken by a Council investigation officer it is recommended that the owners of the building continue to comply with the written fire safety compliance instructions as issued to rectify the identified fire safety deficiencies noted by Council and FRNSW.

Follow-up compliance inspections are currently being undertaken, and will continue to be undertaken by a Council investigation officer to ensure already identified fire safety matters are suitably addressed and that compliance with the terms of Councils correspondence and the recommendations of FRNSW occur.

It is recommended that Council not exercise its powers to give a fire safety order at this time.

That the Commissioner of FRNSW be advised of Council's actions and outcomes.

**Referenced documents:**

No#	Document type	Trim reference
A1.	Fire and Rescue NSW report	2019/018443-01
A2.	Locality Plan	2019/018443-03
A3.	Attachment cover sheet	2019/018443-02

**Trim Reference:** 2019/018443

**CSM reference No#:** 2003523



File Ref. No: BFS17/2637 & BFS17/102  
TRIM Ref. No: D18/88852  
Contact: [REDACTED]

14 December 2018

General Manager  
City of Sydney  
GPO Box 1591  
SYDNEY NSW 2001

Email: [council@cityofsydney.nsw.gov.au](mailto:council@cityofsydney.nsw.gov.au)

Attention: Manager Compliance/Fire Safety

Dear General Manager

**Re: INSPECTION REPORT  
'LOVE MACHINE'  
60 DARLINGHURST ROAD POTTS POINT ("the premises")**

Pursuant to the provisions of Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 9 December 2017 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW). The inspection was also conducted in the company of Officers from the NSW Police Force.

The inspection was limited to the following:

- A visual inspection of the essential Fire Safety Measures as identified in this report only.
- A conceptual overview of the building, where an inspection had been conducted without copies of the development consent or copies of the approved floor plans.

Please be advised that the inspection for 'the premises' was conducted prior to the amendments of the Environmental Planning and Assessment Act 1979 (EP&A Act) on 1 March 2018. As such, all references to the relevant sections in this report are provided prior to the amendments of the EP&A Act.

On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 119T(4) and Section 121ZD(1) of the EP&A Act. Please be advised that Section 121ZD(2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting.

## COMMENTS

Please be advised that this report is not an exhaustive list of non-compliances. The proceeding items are limited to observations of the building accessed at the time of the inspection and identifies possible deviations from the National Construction Code 2016, Volume 1 Building Code of Australia (NCC). FRNSW acknowledges that the deviations may contradict development consent approval or relate to the building's age. It is therefore council's discretion as the appropriate regulatory authority to consider the most appropriate action.

The following items were identified as concerns during the inspection:

### 1. Essential Fire Safety Measures

- 1A. Maintenance – Clause 182 of the Environmental Planning and Assessment Regulation 2000 requires that an Essential Fire Safety Measure must be maintained to a standard no less than when it was first installed. The following was noted at the time of the inspection:
  - A. Automatic Smoke Detection and Alarm System – There were faults and isolations displayed on the Fire Indicator Panel.
  - B. Smoke Detectors – There were plastic bags and tape that covered a number of smoke detectors within “the premises”.
  - C. Smoke Alarms – The face covers to a number of smoke alarms were missing. It is unclear whether the lack of face covers affected the operation of the smoke alarms.
  - D. Exit signs – A number of exit signs that were either not operating when the test button was pressed or were not illuminated.
  - E. Emergency Lighting – A number of spit fires that were not operating when the test button was pressed.
  - F. Magna Latch – The magna latch that leads from the stage area on the first floor to the metal stairway did not engage. At the time of the inspection, a brick was holding the fire door open.
  - G. Fire Doors – There were a number of fire doors that:
    - i. Had been removed from the frame. Specifically, the doors to the laundry, store rooms on the ground, various locations on the various floors. These doors were reinstated on the following inspection.

- ii. Had been damaged, making the doors difficult to close. This meant that the compartment that the doors were meant to be enclosing were compromised. These doors had been repaired on the following inspection.
- 1B. Sleeping Accommodation – At the time of the inspection, there were a combination of thermals and smoke alarms within the sleeping accommodation within the premises. A review of the approved detection system may be required.
2. Access and Egress
- 2A. Paths of Travel to Fire Exits – Paths of travel from ‘the premises’ to a fire exit, including the operation of the Fire Exit door were either obstructed or impeded in contravention of Clause 184 and Clause 186 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), such items include but are not limited to:
- A. The final exit door leading to Kellett Street included a pad bolt. This was removed prior to the second inspection.
  - B. The self-closing device to the final exit door leading to Kellett Street had detached from the door and affected the operation of the door. This was repaired on the subsequent inspection.
  - C. There were garbage bins stored in the path of travel to the final exit door. This was removed on the subsequent inspection.
3. Generally
- 3A. Items for Further Investigation – An investigation may be required by council, to confirm whether consent has been granted to include a Class 3 building classification (as per Clause A3.2 of the NCC), as there were sleeping occupants in rooms 3 and 4.

FRNSW is therefore of the opinion that there are inadequate provisions for fire safety within the building.

#### **FIRE SAFETY ORDER NO. 6**

The inspecting Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW issued an Order No. 6, dated 14 December 2017, in accordance with the provisions of Section 121B of the EP&A Act.

In accordance with the provisions of Section 121ZE of the EP&A Act, a copy of the Order is attached for your information. FRNSW has conducted further inspections of the building to assess compliance with the terms of this Order



## RE-INSPECTION

Pursuant to the provisions of Section 119T(1)(b) of the EP&A Act and Clause 189(a) of the EP&A Regulation, an inspection of 'the premises' on 21 December 2017 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

At the time of the inspection, the terms of 'the order' issued on 'the premises' were compliant. Please be advised that 'the order' is not an exhaustive list of non-compliances, it is at Council's discretion to inspect and address any other deficiencies identified on 'the premises'.

## RECOMMENDATIONS

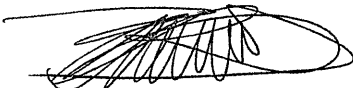
FRNSW recommends that Council:

- a. Inspect and address any other deficiencies identified on 'the premises', and require item no. 1 through to item no. 3 of this report be addressed appropriately.

This matter is referred to Council as the appropriate regulatory authority. FRNSW therefore awaits Council's advice regarding its determination in accordance with Schedule 5, Part 8, Section 17(4) of the EP&A Act.

Should you have any enquiries regarding any of the above matters, please do not hesitate to contact [REDACTED] of FRNSW's Fire Safety Compliance Unit on (02) 9742 7434. Please ensure that you refer to file reference BFS17/2637 & BFS17/102 for any future correspondence in relation to this matter.

Yours faithfully



[REDACTED]  
Senior Building Surveyor  
Fire Safety Compliance Unit

Attachment: [Appendix 1 – Emergency Fire Safety Order 6, dated 14 December 2017- 2 pages]

Appendix 1 – Emergency Fire Safety Order

Unclassified



Emergency Fire Safety Order

Under the Environmental Planning and Assessment Act 1979
Part 6 - Implementation and Enforcement: Division 2A – Orders
Tables to Section 121B: Emergency Order No. 6 – Fire Safety Order

Please note:

- Pursuant to Section 121ZC (2) of the Act, this Order has been given as an Emergency Order as the issuing officer believes activity or deficiencies identified constitute an emergency or a serious risk to safety.
Pursuant to Section 121ZK (2) of the Act, there is no right of appeal against this Order.
Failure to comply with this Order may result in further Orders and/or fines being issued.
Substantial penalties may be imposed under Section 125 of the Act for failure to comply with an Order.

I, [redacted] Building Surveyor 903766
(name) (rank) (number)

being an authorised Fire Officer within the meaning of Section 121ZC of the Environmental Planning and Assessment Act 1979, and duly authorised for the purpose, hereby order:

62 Darlinghurst Road Pty Ltd Owner
(name of person whom Order is served) (position i.e. owner, building manager)

with respect to the premise

'LOVE MACHINE'
LOT 2, DP 206163, 60 DARLINGHURST ROAD POTTS POINT ("the premises")
(name/address of premises to which Order is served)

to do, or refrain from doing, the following things:

- 1. Ensure the Automatic Smoke Detection and Alarm System ("the system") continually monitors 'the premises' by:
a. Repairing all faults displayed on the Fire Indicator Panel (FIP) at the time of the inspection.
b. Rectifying the isolations displayed on the FIP at the time of the inspection.
2. Maintain 'the system' so that it is operational without faults or isolations by ceasing the practise of isolating 'the system'. Ensuring that "the system" operates to the standard of performance it was originally designed, installed and commissioned.
3. Remove all covers that have been attached to the detectors within "the premises". The covers include but are not limited to, plastic bags and tape.

Unclassified

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Fire Safety Compliance Unit Greenacre NSW 2100 F (02) 9742 7483
firesafety@fire.nsw.gov.au Page 1 © Copyright State Govt NSW



Unclassified

The terms of the Order are to be complied with:

By no later than 13.00 hrs Thursday on the 21 December 2017.

The reasons for the issue of this Order are:

- a) At the time of the inspection on 10 December 2017 the following was observed on the Fire Indicator Panel (FIP) the following:
  - i. The LED lights displayed "Fault" and "Isolated".
  - ii. The display panel displayed the following wording:  
*"Kallet Street exit passage SMOKE, L1 S44 Z1 ST: MISSING FLT, Faults 1 of 2".*  
*"Ground floor store (rear) L1 S44 ST: MISSING FLT, Sensor faults 2 of 2"*  
*Internet Café WC THERM, L1 S48 ST: Missing FLT/ISOL, Sensor Isolates 1 of 1".*
- b) The log maintenance log book registered similar faults observed at the time of the inspection dating back June 2017.
- c) At the time of the inspection, a man was observed sleeping in Room 3 (located at the top of the stairs).
- d) The combination of covers to the detectors and the faults and isolations, is likely to interfere with the operation of the detectors and delay the timely evacuation of sleeping occupants.
- e) The faults and isolations Automatic Smoke Detection and Alarm System installed throughout the premises was not operating to the standard of performance it was designed and commissioned, thereby providing no warning to the occupants.
- f) To ensure the Automatic Smoke Detection and Alarm System is fully operational so that occupants are provided with early notification of a fire within the premises so that they may safely evacuate the premises in the event of a fire.
- g) To ensure that Fire Safety Measures installed throughout the building are maintained and operating to their standard of performance.

This Order No. 6 was hand delivered and sent by mail on 14 December 2017.



Building Surveyor  
Fire Safety Compliance Unit

Unclassified

Fire & Rescue NSW

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Page 2

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